

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
v.) Criminal No. 03-10370-DPW
)
)
DOUGLAS BANNERMAN, ET AL)

STATUS REPORT

In response to the Court's request for a status report in advance of the conference currently set for February 8, 2005, the government submits the following Status Report.

1. Outstanding Motions; whether hearing is required.

The following motions have been filed by the named defendants and opposed by the government:

a. Motion to Suppress Wiretap Evidence, docket no. 160 (filed 11/22/04 by Bannerman); motions to join have been filed by defendants John Graham (docket 156), Gary Newell (docket 167), Scott Myers (docket 163), Jose Vezga (docket 165), Kurt Walter (docket 177), and John McCarthy (docket 184). Government opposition filed 12/18/04 (docket no. 186). The government submits that no hearing is necessary, and this motion may be decided on the papers.

b. Motion for a Franks hearing and to suppress evidence, docket no. 166 (filed 11/22/04 by Newell). Government opposition filed 12/28/04 (docket no. 197). The defendant has

requested a hearing on this motion. The government submits that no hearing is necessary, and this motion may be decided on the papers.

c. Motion to dismiss indictment, docket no. 171 (filed 11/23/04 by Newell). Government opposition filed 12/28/04 (docket no. 197). The defendant has requested a hearing on this motion. The government submits that no hearing is necessary, and this motion may be decided on the papers.

d. Motion to suppress evidence seized as result of a traffic stop, docket no. 168 (filed 11/22/04 by Newell). Government opposition filed 12/28/04 (docket no. 196). The defendant has requested a hearing on this motion, and the parties will request that a date be set for such a hearing.

e. Motion to suppress search and seizure, docket no. 162 (filed 11/22/04 by Vezga). Government opposition filed 12/19/04 (docket no. 188). Vezga moved for additional time in which to respond to the government's response (docket no. 190); the Court allowed him until 1/10/05 (order dated 1/6/05). The defendant has requested a hearing on this motion. The government submits that no hearing is necessary, and this motion may be decided on the papers.

2. Plea Negotiations/Anticipated Trial Defendants

As of this writing, only one defendant (Daniel MacAuley) has indicated an intention to change his plea. All other defendants

remain on the trial list.

3. Speedy Trial Act Calculations

The parties have conferred on the periods excludable from all Speedy Trial Act calculations and agree that the following periods are excludable:

| | |
|------------------|-------------------------------------|
| 12/2/03 - 4/4/04 | Order for exclusion entered 2/9/04 |
| 4/5 - 6/16/04 | Order for exclusion entered 4/5/04 |
| 6/17 - 9/22/04 | Order for exclusion entered 6/17/04 |
| 9/23 - 11/22/04 | Order for exclusion entered 9/28/04 |

The government submits that the following timer periods are also subject to exclusion:

| | |
|--------------------|--|
| 11/22/04-12/29/04: | defendants' motions pending (as described above) |
| 12/29/04-2/8/05: | excluded in the interests of justice, as the parties could not agree on a status conference date before 2/8/05; defendants' motions remain pending; and the parties are engaged in pretrial evidence review and negotiation. |

Respectfully submitted,

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